

§ 701.83

claim is filed. False information or false claims include a claim for payment for a practice not carried out or for practices which do not meet the required specifications. Any amounts paid under these circumstances shall be refunded and any amounts otherwise due the person shall be withheld. The withholding or refunding of cost-shares will be in addition to any other penalty or liability otherwise imposed by law.

§ 701.83 Cost-shares not subject to claims.

Any cost-share or portion thereof due any person shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations issued by the Secretary governing set-offs and withholdings, part 13 of this title, as amended, shall be applicable to these programs.

§ 701.84 Assignments.

Any person who may be entitled to any cost-share under these programs may assign the right thereto, in whole or in part, in accordance with the regulations governing the assignment of payments at 7 CFR part 709.

§ 701.85 Environmental considerations.

All actions implemented under the programs in this part shall be in compliance with regulations issued as part 799—Environmental Quality and Related Environmental concerns which includes the procedures for complying with the National Environmental Policy Act, for Floodplain Management and Wetland Protection and for other environmental concerns.

§ 701.86 Information collection requirements.

Information collection requirements contained in this part have been approved by the Office of Management and Budget under the provisions at 44 U.S.C. Chapter 35 and have been assigned OMB Numbers 0560-0078, 0560-0079, and 0560-0082.

[54 FR 41819, Oct. 12, 1989]

7 CFR Ch. VII (1-1-00 Edition)

PART 702—COLORADO RIVER BASIN SALINITY (CRSC) CONTROL PROGRAM

Sec.

- 702.1 General.
- 702.2 Definitions.
- 702.3 Administration.
- 702.4 Applicability.
- 702.5 Eligible land.
- 702.6 Eligible entity.
- 702.7 Salinity control plan.
- 702.8 Eligible salinity reduction practices (SRP's).
- 702.9 CRSC Contract and obligations of the participant.
- 702.10 Operation and maintenance agreements.
- 702.11 Obligations of USDA.
- 702.12 Availability of cost-share payments.
- 702.13 Levels and rates of cost-share payments.
- 702.14 Assignments.
- 702.15 Payments not subject to claims.
- 702.16 Maximum amount of cost-share payments.
- 702.17 Transfers of land and contract modifications.
- 702.18 Violations.
- 702.19 CRSC Contracts and operation and maintenance agreements not in conformity with regulations.
- 702.20 Appeals.
- 702.21 Access to land.
- 702.22 Performance based upon advice or action of representatives of the Department or a CD.
- 702.23 Filing of false claims.
- 702.24 Depriving others of payments.
- 702.25 Miscellaneous.
- 702.26 Paperwork Reduction Act assigned numbers.

AUTHORITY: Sec. 201, Pub. L. 93-320, 88 Stat. 271; Sec. 2, Pub. L. 98-569, 98 Stat. 2933 (43 U.S.C. 1592(c)).

SOURCE: 52 FR 16741, May 5, 1987, unless otherwise noted.

§ 702.1 General.

The regulations in this part set forth the terms and conditions of the Colorado River Salinity Control (CRSC) Program authorized by section 202 of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592) (the Act). Under the Act the Secretary is authorized to:

- (a) Identify salt-source areas in the Colorado River Basin;
- (b) Develop plans for implementing conservation measures that will reduce the salt load in the Colorado River, including the voluntary replacement of

Farm Service Agency, USDA

§ 702.2

incidental fish and wildlife values foregone;

(c) Share the cost of establishing such conservation measures and practices;

(d) Provide technical assistance;

(e) Monitor and evaluate changes in salt contributions to the Colorado River; and

(f) Carry out related research, demonstration and education activities.

§ 702.2 Definitions.

(a) The following definitions shall be applicable for the purposes of this part:

(1) *Applicant* means an entity who has offered to enter into a CRSC Contract in accordance with the provisions of this part;

(2) *Actual cost* means the direct costs of establishing a salinity reduction practice, and includes the cost of labor, supplies, and other necessary activities;

(3) *Average cost* means the cost, determined by averaging actual costs and current cost estimates, considered to be necessary for a participant to carry out a salinity reduction practice, a designated component of a salinity reduction practice, or a system of practices;

(4) *Conservation District* (CD) means a subdivision of a State organized pursuant to applicable State law. The term includes bodies variously known in the States as conservation district, soil conservation district, soil and water conservation district, natural resource district, resource conservation district, or natural resource conservation district;

(5) *Components* means measurable units of a salinity reduction practice which, when completed by the program participant, can be certified by the Soil Conservation Service (SCS) as reasonable, identifiable progress toward completion of the practice with respect to which cost-share payment is being made under the CRSC program;

(6) *Conservation treatment* means the combination of salinity reduction practices that will provide the salinity control treatment required to reduce seepage and improve irrigation water management in order to achieve the projected salt load reductions indicated in the applicable published USDA Salinity Control Report. Such treatment

may include replacement of incidental fish and wildlife values foregone as a result of salinity control treatment applied by the participant under the CRSC program.

(7) *CRSC Contract* means the contract including the salinity control plan, entered into in writing between the local Agricultural Stabilization and Conservation Committee (COC) and the participant which sets forth the terms and conditions for participation in the CRSC Program established in accordance with this part.

(8) *Cost-effective* means maximization of the CRSC Program on-farm and off-site benefits at the least Federal cost per unit of salinity reduction.

(9) *Cost-share assistance* means the providing of financial resources to assist program participants in establishing conservation treatment identified in participants' contracts;

(10) *Cost-share rate* means a fixed amount of cost-share funds paid per unit for carrying out certain salinity reduction practices.

(11) *Deputy Administrator* means the FSA Deputy Administrator for State and County Operations, or designee.

(12) *Entity* means an individual or group of individuals, Indian tribe, partnership, firm, joint-stock company, corporation, association, trust, estate, irrigation district/company, or other public or nonpublic entity (except federal agencies), and wherever applicable, a State, a political subdivision of a State, or any agency thereof;

(13) *Fish and wildlife values foregone* means incidental fish and wildlife habitats that may be affected adversely by salinity reduction practices applied by the program participant;

(14) *Irrigation district/company* means a group of individuals (private or public) associated together in a locality, that has a vested interest in the operation of an irrigation distribution system that serve as a specific area. This definition includes irrigation districts, mutual water companies or districts, water conservancy districts, canal companies, and other similar entities;

(15) *Lifespan* means the period of time during which a salinity reduction practice is expected to effectively achieve

§ 702.2

7 CFR Ch. VII (1–1–00 Edition)

or provide the results for which it was developed and implemented.

(16) *Offsite benefits* means those benefits which accrue downstream as a result of reduced salinity concentrations in the Colorado River by the salt load reductions achieved through implementation of the CRSC Program and/or its constituent practices and treatments;

(17) *On-farm benefits* means those benefits which accrue on a farm from improved irrigation systems and efficiencies, including reduced production costs, reduced labor costs, reduced operation and maintenance costs, and improved crop yields;

(18) *Operation and Maintenance Agreement* means the agreement entered into between the COC and the participant which sets forth the terms and conditions requiring the participant to use and maintain the salinity reduction practices for their effective lifespans as set forth in the agreement;

(19) *Participant* means any entity who has entered into an approved CRSC Contract with the COC to participate in the CRSC Program;

(20) *Project implementation plan* means a plan of operations developed by Farm Service Agency, Extension Service and Soil Conservation Service, in consultation with local officials for the purpose of implementing a project plan for a specific salt source area;

(21) *Project plan* means that plan of conservation treatment that is identified in the applicable USDA Salinity Control Report as the preferred plan for implementation of salinity reduction practices in a specific salt source area. The project plan will identify cost-effective salinity reduction practices, the land which should receive conservation treatment on a priority basis in relation to other land in the specific salt source area, and the levels of conservation treatment needed in the specific salt source area in order to achieve the most cost-effective salinity control objectives for the particular area to be achieved;

(22) *Salinity control plan* means the plan and schedule of operations that sets forth salinity reduction practices that must be established on a specific unit of land. The salinity control plan shall be developed by the applicant

with assistance from the SCS and must be approved by the CD;

(23) *Salinity Reduction Practice (SRP)* means a specific conservation practice designed to reduce salt loading from a salt source area or to replace incidental fish and wildlife values foregone that is identified in a project plan and project implementation plan for a salt-source area;

(24) *Salt-source area* means a geographical area within the Colorado River Basin that has been identified by SCS as a significant contributing source of salt to the Colorado River;

(25) *Specifications* means minimum quantity and quality requirements established by SCS to meet the standard for a specific conservation practice;

(26) *State Conservationist* means the SCS official in charge of agency operations within a state, as set forth in part 600 of this chapter;

(27) *Technical assistance* means use of personnel and financial resources to identify salt-source areas, develop project plans, prepare salinity control plans, contracts, and designs, supervise plan installation, and carry out research, demonstration, education, monitoring, and evaluation activities;

(28) *USDA Salinity Control Report* means a report that identifies salt source areas in the Colorado River Basin and establishes a cost-effective project plan for such areas designed to reduce the salinity levels in the Colorado River. The USDA Salinity Control Report is prepared and published by the Soil Conservation Service with provision for public comment;

(29) *Technical guide* means a document on file in the local SCS office containing technical information and specifications for the conservation of soil, water, plant, animal, and related natural resources specifically applicable to the area for which it is prepared.

(b) In the regulations in this part and in all instructions, forms, and documents in connection therewith, all other words and phrases shall, unless the context of subject matter otherwise requires, have the meanings assigned to them in the regulations governing reconstitutions of farms, allotments and bases, 7 CFR part 719.

[52 FR 16741, May 5, 1987, as amended at 58 FR 11785, Mar. 1, 1993]

Farm Service Agency, USDA

§ 702.5

§ 702.3 Administration.

(a) *Farm Service Agency.* (1) The Farm Service Agency (FSA), under the general supervision of the Administrator, FSA, shall administer the program established by this part. This program shall be carried out in the field by State ASC committees (STC) and local county ASC committees (COC).

(2) Except as provided in paragraph (b) of this section, the Deputy Administrator, State and County Operations, FSA (Deputy Administrator), may determine any question arising under the program provided for in this part, may reverse or modify any determination made by an STC or COC in connection with this program, and may administer any and all phases of this program delegated to the COC, STC, or any employee(s) where the COC, STC, or any employee fails to perform a function required in these regulations. In exercising this authority, the Deputy Administrator may authorize a person or persons to carry out this program for such period of time as is deemed necessary.

(b) *Soil Conservation Service.* (1) The Soil Conservation Service (SCS) shall:

(i) Identify salt source areas in the Colorado River Basin;

(ii) Develop USDA Salinity Control Reports;

(iii) Assist participants in developing salinity control plans; and

(iv) Provide such other technical assistance in the implementation of the CRSC Program as is determined to be necessary.

(2) The Chief, SCS, may determine any question arising under the CRSC Program with respect to the activities of SCS, State Conservationists, and conservation districts.

(3) In developing the USDA Salinity Control Report and implementing the project plan, SCS shall coordinate with other agencies of the U.S. Department of Agriculture, the United States Department of the Interior, and the Environmental Protection Agency.

(c) The Extension Service (ES) shall develop and coordinate information and educational programs and may provide other technical support to carry out the program provided for by this part.

(d) Other USDA agencies such as Co-operative State Research Service (CSRS) and the Agricultural Research Service (ARS) may conduct research and may provide other technical support needed to carry out the CRSC Program.

§ 702.4 Applicability.

(a) The provision of this part shall be applicable to areas within the Colorado River Basin that have been identified by SCS as salt source areas.

(b) The program provided for by this part shall be applicable to private lands, Indian tribal lands, lands owned or controlled by irrigation districts or companies, Federal land under the control of the USDA, and State and local government lands.

§ 702.5 Eligible land.

For the purposes of this part, eligible land is land that is within the Colorado River Basin area which:

(a) Has been identified by SCS as a salt source area;

(b) Is the subject of a published USDA Salinity Control Report and an approved project implementation plan;

(c) Has been irrigated at least two years during the period between 1982 and 1986, inclusive; and

(d) Notwithstanding the criteria articulated in paragraphs (a) through (c) of this section, the Deputy Administrator has final authority to approve land for CRSC program eligibility if one of the following conditions is satisfied:

(1) If it is determined impossible to reorganize the existing irrigation system to increase irrigation efficiencies to obtain salt load reduction, irrigated land may be exchanged for nonirrigated land.

(2) Nonirrigated wildlife areas devoted to replacing incidental fish and wildlife values foregone because of the CRSC program.

(3) Incidental land, which in the course of improving or reorganizing the existing irrigation system, becomes irrigable.

[52 FR 16741, May 5, 1987, as amended at 58 FR 11785, Mar. 1, 1993]

§ 702.6

§ 702.6 Eligible entity.

In order to be eligible to enter into a CRSC Contract, an entity must own or have control over eligible land.

§ 702.7 Salinity control plan.

(a) The applicant, in consultation with SCS, shall develop the salinity control plan which is the most cost-effective consistent with the project plan.

(b) All salinity control plans must be approved by the CD in order for the SRP's contained therein to be eligible for cost-share assistance.

(c) When approving salinity control plans, the CD shall ensure that the salinity control plan is consistent with the approved project plan and cost-effective SRP's identified in the approved project implementation plan for the area.

§ 702.8 Eligible salinity reduction practices (SRP's).

(a) Eligible SRP's are those practices specified in the project implementation plan and the participant's salinity control plan that:

(1) Significantly reduce the salt loading from a unit of land; or

(2) Replace incidental fish and wildlife values foregone; or

(3) Reduce erosion or seepage to a degree which significantly benefits salinity control.

(b) Notwithstanding the foregoing provisions of this section, the following practices shall not be considered to be eligible SRP's:

(1) Practices installed primarily for the purpose of bringing additional land into production, for increasing production above that which is incidental to application of conservation treatment for salinity control, or for flood protection; and

(2) Practices which are installed or commenced before the contract for cost-share assistance has been approved.

§ 702.9 CRSC Contract and obligations of the participant.

(a) In order to receive cost-share assistance in accordance with this part, an eligible entity must enter into a CRSC Contract with a COC and, if required by the COC, enter into separate

7 CFR Ch. VII (1-1-00 Edition)

operation and maintenance agreements in accordance with § 702.10 of this part.

(b) The CRSC Contract will be comprised of:

(1) The terms and conditions of the contract; and

(2) The salinity control plan.

(c) All CRSC Contracts shall have a term of not less than 3 nor more than 10 years.

(d) Eligible entities may offer to enter into a CRSC Contract in accordance with this part through the COC located in the same county as the eligible land or such other COC designated to administer contracts in the project area.

(e) By entering into a CRSC Contract, the participant agrees to:

(1) Carry out the terms and conditions of the CRSC Contract;

(2) Implement the salinity control plan:

(i) In accordance with the schedule of completion dates included in such plan, unless an extension of time is granted by the COC in consultation with the CD; and

(ii) Install all SRP's included in the salinity control plan in accordance with the SCS field office technical guide, regardless of whether the applicant receives cost-share assistance with respect to a SRP;

(3) Acquire all authorities, rights, easements, permits or other approvals necessary to install and maintain the SRP's and for compliance with applicable Federal, State, and local laws and regulations;

(4) Hold the Federal government harmless for any losses it may sustain if the participant infringes on the rights of others or fails to comply with applicable Federal, State, or local laws or regulations;

(5) Operate and maintain, at no cost to the Federal government, the SRP's as specified in the salinity control plan and ACP-245, Practice Approval and Payment Application, or as specified in separate operation and maintenance agreements entered into by the participant for the effective lifespan of the SRP's, as determined by SCS; and

(6) Not undertake any action on the land subject to the CRSC Contract that tends to defeat the purposes of the program provided for by this part.

Farm Service Agency, USDA

§ 702.12

(f) All entities who have a present possessory interest in the land, to be eligible for CRSC cost share, must sign a CRSC contract.

(g) The participant and each entity signing the CRSC Contract shall be jointly and severally responsible for compliance with the contract and the provisions of this part and for any refunds or payments which may be required for violation of any of the terms and conditions of the CRSC Contract and the provisions of this part.

(h) The CRSC contract may require that all participants and/or landowners, as a condition of eligibility for cost-share assistance, grant to the Secretary a recordable security interest in the property or equipment of the SRP's that are installed, with the value of the granted interest to be determined by FSA.

(i) The Deputy Administrator, or the Deputy Administrator's designee, may, in consultation with SCS and the CD, accept or reject offers to enter into a CRSC Contract.

(j) CRSC Contracts shall be implemented, and salinity control plans shall be developed, in the order of priority within the applicable salt source area that is established by the COC and CD in consultation with SCS.

[52 FR 16741, May 5, 1987, as amended at 58 FR 11785, Mar. 1, 1993]

§ 702.10 Operation and maintenance agreements.

(a) The participant shall enter into with the COC any operation and maintenance agreements determined to be necessary by the COC in order to ensure proper operation and maintenance of the SRP's provided for in the CRSC Contract.

(b) The operation and maintenance agreement will be comprised of:

(1) The terms and conditions of the agreement; and

(2) An operation and maintenance plan prepared by SCS.

(c) By entering in a operation and maintenance agreement, the participant agrees to:

(1) Carry out the terms and conditions of the operation and maintenance agreement;

(2) Operate and maintain, at no cost to the Federal government, the SRP's

for the effective lifespan of all SRP's included in the operation and maintenance agreement;

(3) Operate, maintain and inspect the SRP's in accordance with the operation and maintenance plan;

(4) Obtain prior COC and SCS approval of all plans, designs, and specifications for any alteration to the SRP's;

(5) Prohibit the installation of any structure or facility that will interfere with the operation and maintenance of the SRP's;

(6) Notify the COC and SCS of any agreement to be entered into with other parties for the operation and maintenance of all or part of SRP's and provide the COC and SCS with a copy of such agreement when it has been signed by the participant and the other party; and

(7) Not undertake any action on the land subject to the operation and maintenance agreement that tends to defeat the purposes of the CRSC program;

(d) The participant and each person signing the operation and maintenance agreement shall be jointly and severally responsible for compliance with the operation and maintenance agreement and the provisions of this part and for any refunds or payment adjustments that may be required for violation of any of the terms and conditions of the operation and maintenance agreement and provisions of this part.

§ 702.11 Obligations of USDA.

FSA shall, subject to the availability of funds, share the cost with participants of establishing eligible SRP's specified in the salinity control plan at the levels and rates of cost-sharing determined in accordance with the provisions of § 702.13 and SCS shall provide such technical assistance as may be necessary to assist the participant in carrying out the CRSC Contract.

§ 702.12 Availability of cost-share payments.

(a) Cost-share payments shall be made available to a participant in a CRSC Contract upon a determination by the COC that SCS has certified that

§ 702.13

the eligible SRP or an identifiable portion thereof has been established in accordance with the appropriate standards and specifications and that such SRP would serve the functional purposes for which the practice is intended.

(b) Cost-share payments may be made available under this part only for the establishment or installation of an eligible SRP.

(c) Cost-share assistance may be approved for the replacement, enlargement, or restoration of SRP's installed under a CRSC Contract if such practices, as originally installed, failed to achieve the desired salinity reduction and if:

(1) The replacement, enlargement, or restoration of the SRP is required to solve identified problems or to achieve salt reduction benefits;

(2) The approved specifications for the SRP were met in the original installation of the practice; and

(3) The failure of the SRP to solve the identified problem or to achieve salt reduction benefits was caused by circumstances beyond the control of the participant.

(d) If a participant has taken any action which tends to defeat the purposes of the program provided for by this part, the COC may withhold or require a refund of all or part of any payments otherwise due or paid that participant in accordance with this part. Such actions include, but are not limited to, failure to properly maintain or deliberately destroying a SRP.

§ 702.13 Levels and rates of cost-share payments.

(a) The level of Federal cost-share assistance for the required SRP's for the project shall be determined by formulas as established in the USDA Salinity Control Report.

(b) Except as provided in paragraph (c) of this section, cost-share payments shall not exceed the lesser of 70 percent of the average cost or 70 percent of the actual cost of the installation of the SRP.

(c) The Deputy Administrator, in consultation with the USDA Salinity Control Coordinating Committee, may approve cost-share levels in excess of 70 percent of the average or actual cost of

7 CFR Ch. VII (1-1-00 Edition)

installation of the SRP or in excess of the level based on the ratio of on-farm and offsite benefits if such increased assistance is necessary to obtain acceptable program participation. Higher cost-share levels shall be considered only when one or more of the following apply, unless the Secretary finds at his discretion that such cost-sharing requirement would result in a failure to proceed with needed on-farm measures:

(1) On-farm benefits that are low relative to offsite benefits;

(2) Higher degree of project cost-effectiveness and magnitude of salinity reduction benefits to be achieved relative to other projects;

(3) The need for and the cost of implementing voluntary SRP's to replace incidental fish and wildlife values foregone;

(d) The combined cost-share assistance provided by Federal, State, and local governments or subdivisions thereof shall not exceed 100 percent of the cost of installing the SRP.

[52 FR 16741, May 5, 1987, as amended at 58 FR 11786, Mar. 1, 1993]

§ 702.14 Assignments.

Any participant entitled to cost-share payments under this program may assign the right to receive such payment, in whole or in part, as provided in the regulations at 7 CFR part 709, Assignment of Payment, or as provided in instructions issued by the Deputy Administrator.

§ 702.15 Payments not subject to claims.

Subject to the regulations found at 7 CFR part 13, any cost-share payment or portion thereof due any entity shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against the practice in favor of the owner or any other creditor, except agencies of the United States Government.

§ 702.16 Maximum amount of cost-share payments.

(a) Maximum payments for on-farm SRP's.

(1) Except as provided in paragraph (a)(2) of this section, the maximum amount of cost-share payments that a

COC may approve for the establishment of on-farm SRP's on all land owned or controlled by a participant for the life of the program provided for by this part shall not exceed \$100,000.

(2) The Deputy Administrator may approve cost-share payments to a participant for the establishment of on-farm SRP's in excess of \$100,000.

(b) Except as provided in paragraphs (b)(1) and (b)(2) of this section, the maximum program cost-share payment that a COC may approve for implementing required SRP's for installing and improving canals and laterals on all land owned and controlled by a participant for the life of the program shall not exceed \$200,000.

(1) Upon the request of the COC, the STC may authorize the COC to approve cost-share payments to a participant for the establishment of canal and lateral improvements in an amount that exceeds, \$200,000 but not greater than \$400,000.

(2) Upon the request of the COC, the Deputy Administrator may authorize the COC to approve cost-share payments to a participant for the establishment of canal and laterals improvements in amounts exceeding \$400,000.

(c) Cost-sharing payments in excess of \$100,000 shall be considered only when such payment will result in greater total offsite benefits, because the offsite benefits for the participants SCP, are greater than those of other participants under consideration at the same time and one or more of the following conditions exist:

(1) The cost of establishing required SRP's on the participant's land is high relative to the cost of installing practices on other similar land because of barriers or limitations imposed by nature or by man through past irrigation system practices;

(2) The extent of SRP's that must be established on a participant's land; and

(3) Increases in the cost of conservation materials and services that are beyond the participant's control.

§ 702.17 Transfers of land and contract modifications.

(a) CRSC Contracts may be transferred or modified with the agreement of all parties to the contract. The transferee shall assume full

responsibility for performance under the CRSC Contract, including the implementation of scheduled SRP's and the operation and maintenance of existing and scheduled SRP's.

(b) A participant who sells or loses control of the land under a CRSC Contract or any related operation and maintenance agreement to a new owner who refuses to perform the provisions of the CRSC Contract or operation and maintenance agreement or a participant who sells the water rights before there is compliance with all of the terms and conditions of a CRSC Contract or operation and maintenance agreement may be required to refund all or a portion of the cost-share assistance earned under the program.

§ 702.18 Violations.

(a)(1) If a participant violates the CRSC Contract or any related operations and maintenance agreement, the COC may, after considering the recommendations of the CD and SCS, terminate the CRSC Contract and operation and maintenance agreement.

(2) If the CRSC Contract is terminated by the COC in accordance with this section, the participant shall forfeit all rights to further cost-share payments under the CRSC Contract and shall refund all or part of the payments received as determined by the COC.

(b) The following actions constitute a violation of the CRSC Contract or any related operation and maintenance agreement by a participant:

(1) Destruction of a SRP on land which is the subject of a CRSC Contract, unless prior approval in writing is granted by FSA with SCS concurrence;

(2) Failure to comply with the terms and conditions of the CRSC Contract and any related operation and maintenance agreements;

(3) Filing of a false claim;

(4) Undertaking any action during the CRSC Contract or any operation and maintenance agreement period that tends to defeat the purpose of the program, including the destruction of any existing conservation practices that were established under any other cost-share program unless the participant provides evidence that all of the

§ 702.19

participant's obligations under such other program have been met; or

(5) Employment of any scheme or device to obtain cost-share assistance or additional cost-share assistance, or to deprive any other land user of cost-share assistance or the right to participate in the program.

(c) The Deputy Administrator may terminate any CRSC Contract and any related operation and maintenance agreements by mutual agreement with the participant based upon recommendations from COC, STC, SCS, and CD, if the termination of the CRSC Contract and operation and maintenance agreement is determined to be in the best interest of the public.

(d) If the participant fails to perform the terms and conditions of the CRSC contract and the Deputy Administrator determines, after considering the recommendations of the CD and SCS, that such failure does not warrant termination of the CRSC contract, the Deputy Administrator may require such participant to refund all or part of the payments received under the CRSC contract, or to accept such adjustments in the payment as are determined to be appropriate by the Deputy Administrator.

[52 FR 16741, May 5, 1987, as amended at 58 FR 11786, Mar. 1, 1993]

§ 702.19 CRSC Contracts and operation and maintenance agreements not in conformity with regulations.

If, after a CRSC Contract and related operation and maintenance agreement are entered in by the COC with a participant, it is discovered that such contract and operation and maintenance agreement are not in conformity with the provisions of this part as the result of a misunderstanding of the program procedures by a signatory to the contract and operation and maintenance agreement, a modification of the contract and operation and maintenance agreement may be made by mutual agreement. If the parties to the CRSC Contract and operation and maintenance agreement cannot reach agreement with respect to such modification, the contract and operation and maintenance agreement shall be terminated and all payments paid or payable under the contract shall be forfeited or

7 CFR Ch. VII (1-1-00 Edition)

refunded to the Federal government, except as may otherwise be allowed in accordance with the provisions of § 702.18 of this part.

§ 702.20 Appeals.

The participant may obtain a review, in accordance with the provisions of 7 CFR part 614 and 7 CFR part 11, of any administrative decision made under the provisions of this part.

[60 FR 67316, Dec. 29, 1995]

§ 702.21 Access to land.

The COC, SCS or other agency providing technical services or representatives thereof shall have the right of access to land for which application to enter into a CRSC Contract has been made or for which a CRSC Contract has been entered into and the right to examine any program records to ascertain the accuracy of any representation made in the application or to determine compliance with the contract.

§ 702.22 Performance based upon advice or action of representatives of the Department or a CD.

Notwithstanding any other provision of law, performance rendered in good faith in reliance upon the action or advice of any authorized representative of a CD, a representative of SCS or the STC or COC may be accepted by the Chief of SCS or the Deputy Administrator, as applicable, as meeting the requirements of this program. SCS or the Deputy Administrator, respectively, may grant relief because of such good faith reliance to the extent it is deemed necessary to provide fair and equitable treatment.

§ 702.23 Filing of false claims.

(a) If it is determined by the COC, with STC concurrence, that any participant has knowingly submitted false information or filed a false claim, such participant shall be ineligible for payments under the provisions of this part with respect to the calendar year in which the false information or claim was filed.

(b) False information or false claims include a claim for payment for a SRP not carried out or for the establishment of SRP's which do not meet the required specifications. Any amounts

Farm Service Agency, USDA

§ 707.2

paid under these circumstances shall be refunded and any amounts otherwise due the participant shall be withheld. The withholding or refunding of such payments will be in addition to any other penalty or liability otherwise imposed by law.

§ 702.24 Depriving others of payments.

If the COC with STC concurrence finds that any participant has employed any scheme or device to deprive any other person of payments under this part, it may withhold or require a refund of all or part of any program payment otherwise due or paid that person in accordance with the CRSC Contract. A scheme or device includes, but is not limited to, coercion, fraud, or misrepresentation.

§ 702.25 Miscellaneous.

(a) In accordance with the regulations set forth at 7 CFR part 796:

(1) No payment shall be made to any participant who harvests or knowingly permits to be harvested for illegal use, marihuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by such participants; and

(2) Any participant who is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for any payments under this part during that crop year and the four (4) succeeding crop years.

(b) In case of death, incompetency, or disappearance of any participant, any cost-share payment due shall be paid to the participant's successor in accordance with provisions of 7 CFR part 707.

§ 702.26 Paperwork Reduction Act assigned numbers.

The Office of Management and Budget has approved the information collection requirements contained in these regulations under the provisions of 44 U.S.C. Chapter 33 and OMB number 0560-0128 has been assigned.

PART 707—PAYMENTS DUE PERSONS WHO HAVE DIED, DISAPPEARED, OR HAVE BEEN DECLARED INCOMPETENT

Sec.

707.1 Applicability.

707.2 Definitions.

707.3 Death.

707.4 Disappearance.

707.5 Incompetency.

707.6 Death, disappearance, or incompetency of one eligible to apply for payment pursuant to the regulations in this part.

707.7 Form of application.

AUTHORITY: 54 Stat. 728, as amended, sec. 121, 70 Stat. 197, sec. 375, 52 Stat. 66, as amended, sec. 124(i), 75 Stat. 300, sec. 307(h), 76 Stat. 617, sec. 318, 76 Stat. 622, sec. 324(2), 76 Stat. 630, sec. 704, 68 Stat. 911, secs. 4, 8(b), 49 Stat. 164, 1149, as amended, sec. 101(4), 76 Stat. 606, sec. 3, 77 Stat. 45, sec. 4, 62 Stat. 1070; 5 U.S.C. 301, 7 U.S.C. 1334 note, 1339, 1375, 1379j, 1385, 1783, 1809; 16 U.S.C. 590d, 590h(b), 590(e), 590p(h), 15 U.S.C. 714b(d)(j)(k).

SOURCE: 30 FR 6246, May 5, 1965, unless otherwise noted.

§ 707.1 Applicability.

This part applies to all programs in title 7 of the Code of Federal Regulations which are administered by the Farm Service Agency under which payments are made to eligible program participants. This part also applies to all other programs to which this part is applicable by the individual program regulations.

§ 707.2 Definitions.

“Person” when relating to one who dies, disappears, or becomes incompetent, prior to receiving payment, means a person who has earned a payment in whole or in part pursuant to any of the programs to which this part is applicable. “Children” shall include legally adopted children who shall be entitled to share in any payment in the same manner and to the same extent as legitimate children of natural parents. “Brother” or “sister”, when relating to one who, pursuant to the regulations in this part, is eligible to apply for the payment which is due a person who